

REMARKS

Applicants have amended claims 1-2, 15, 26-28, 40, and 56, and have canceled claims 1-25, 51-54, and 57-58 during prosecution of this patent application. Applicants are not conceding in this patent application that said amended and canceled claims are not patentable over the art cited by the Examiner, since the claim amendments and cancellations are only for facilitating expeditious prosecution of this patent application. Applicants respectfully reserve the right to pursue said amended and canceled claims, and other claims, in one or more continuations and/or

The Examiner rejected claims 26-50, 55, 56 and 59-64 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

The Examiner rejected claims 26-50, 55, 56 and 59-64 under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants respectfully traverse the § 112 rejections with the following arguments.

35 U.S.C. § 112, First Paragraph: Claims 26-50, 55, 56 and 59-64

The Examiner rejected claims 26-50, 55, 56 and 59-64 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

The Examiner argues: “With regard to claim 26, the limitation "wherein there is no coinciding path segment among the separate communication channels between the control server and each server of the at least two servers in each cluster" is not described by the specification. Applicant points to Fig.1 in support of the amendments to claim 26 (Remarks 13). Fig. 1 shows a control server connected to two servers in each cluster via dashed lines 31-39. The specification describes elements 31-19 as "communication channels" (p.10, II. 1-2) and further describes the communication channels as "any known communication channel such as, *inter alia*, the Internet, an intranet, cable, telephone wiring, hard wiring such as within a computer system, optical fibers, etc." (p. 10, II. 2-5). However, the specification fails to describe an embodiment where that are no coinciding path segments shared by any of the communication channels... Claim 28 contains a similar limitation and is rejected under the same rationale.”

In response, Applicants note that some of the exemplary types of communication channels 32, 33, 35, 36, 38, 39 (e.g., optical fibers) listed in the specification, page 10, lines 2-5 may have no coinciding path segment among the separate communication channels.

Applicants further note that the communication channels 32, 33, 35, 36, 38, 39 are depicted in FIG. 1 as distinct, with respect to their respective segments, between the control server 25 and each server (W_1 , W_2 , A_1 , A_2 , D_1 , D_2) in each cluster (21, 22, 23).

Based on the preceding argument, Applicants respectfully contend that the limitation “wherein there is no coinciding path segment among the separate communication channels

between the control server and each server of the at least two servers in each cluster” in independent claims 26 and 28 is supported in the specification and Figures.

Accordingly, Applicants respectfully request that the rejection of claims 26-50, 55, 56 and 59-64 under 35 U.S.C. § 112, first paragraph be withdrawn.

35 U.S.C. § 112, Second Paragraph: Claims 26-50, 55, 56 and 59-64

The Examiner rejected claims 26-50, 55, 56 and 59-64 under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner argues: “With regard to claim 26, the limitation "said control server being directly linked to each server of at least two servers in each cluster" is unclear. It is unclear if Applicant intends for the control server to connect to each server in a cluster containing two servers or only two servers in a cluster that may contain two or more servers, or each server in a cluster that may contain two or more servers... Based on the specification of the present application, it appears that Applicant intends for each cluster to contain at least two servers with the control server directly connected to each server in each cluster, regardless of the number of servers in the cluster (i.e., in a cluster with three servers, the control server is connected to each of them). ”

In response, Applicants acknowledge that the Examiner’s interpretation of the cited claim language is correct and that the text of the cited claim language is clear and unambiguous. For example, if the at least two servers were to consist of three servers than the cited claim language would be “said control server being directly linked to each server of three servers in each cluster”, which clearly means that the control server is directly linked all three servers.

Based on the preceding argument, Applicants respectfully contend that the limitation “said control server being directly linked to each server of at least two servers in each cluster ” in independent claims 26 and 28 is clear and unambiguous.

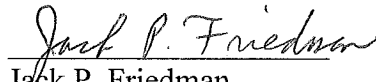
Accordingly, Applicants respectfully request that the rejection of claims 26-50, 55, 56 and

59-64 under 35 U.S.C. § 112, second paragraph be withdrawn.

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 09-0457 (IBM).

Date: 06/26/2009


Jack P. Friedman
Registration No. 44,688

Customer No. 30449
Schmeiser, Olsen & Watts
22 Century Hill Drive - Suite 302
Latham, New York 12110
Telephone (518) 220-1850
Facsimile (518) 220-1857
E-mail: jfriedman@iplawusa.com